

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Request For Waiver And Applications For</b>	)	<b>WT Docket No. 12-373</b>
<b>Assignment Of The Upper 700 MHz C Block</b>	)	
<b>License In The Gulf Of Mexico From</b>	)	
<b>Small Ventures USA, LP To Cellco Partnership</b>	)	
<b>D/B/A Verizon Wireless</b>	)	

**To: Chief, Wireless Telecommunications Bureau**

**COMMENTS  
OF THE  
AMERICAN PETROLEUM INSTITUTE**

The American Petroleum Institute (“API”), by its undersigned attorneys, hereby submits comments in response to the Federal Communications Commission’s (“Commission”) Public Notice<sup>1</sup> regarding the request for waiver filed by Small Ventures USA, LP (“Small Ventures”) and Cellco Partnership D/B/A Verizon Wireless (“Verizon,” together with Small Ventures, “the Applicants”) in connection with applications to assign the upper 700 MHz C Block license in the Gulf of Mexico.<sup>2</sup> API supports the Commission’s efforts to consider unique treatment for wireless radio licenses to potentially bring new offshore communications services to the Gulf. Although API does not necessarily object to the Applicants’ request in light of the facts of this specific case, as described herein API believes that the Commission must clarify the proposed construction obligation in any Order granting the Applications.

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<sup>1</sup> See Wireless Telecommunications Bureau Seeks Comment On Request For Waiver And Applications For Assignment Of The Upper 700 MHz C Block License In The Gulf Of Mexico From Small Ventures USA, LP To Cellco Partnership D/B/A Verizon Wireless, *Public Notice*, WT Docket No. 12-373, DA 12-2066 (2012).

<sup>2</sup> See ULS File Nos. 0005501846 and 0005501481 (the “Applications”). API’s comments are limited only to the request for waiver and does not address other issues raised in the Applications.

## **I. BACKGROUND**

API is a national trade association representing more than 500 companies involved in all phases of the petroleum and natural gas industries, including exploration, production, refining, marketing and transportation of petroleum, petroleum products and natural gas. Among its many activities, API acts on behalf of its members as spokesperson before federal and state regulatory agencies. The API Telecommunications Subcommittee evaluates and develops responses to state and federal proposals affecting telecommunications facilities used in the oil and gas industries.

API's membership includes companies that are authorized by the Commission to operate, among other telecommunications facilities, various types of communications systems in the Gulf of Mexico. API's members also utilize telecommunications services from third party providers operating wireless, wireline and satellite systems in the Gulf of Mexico. These telecommunications facilities are used to support the search for, production, and pipeline transportation of oil and natural gas. The facilities licensed to and used by API's members are therefore essential to the provision of our nation's energy sources.

More specifically, API's members utilize a wide variety of systems, including point-to-point, point-to-multipoint microwave and two-way mobile radio systems, in the Gulf of Mexico to serve a variety of vital telecommunications requirements, including communication between remote oil and gas exploration and production sites, for supervisory control and data acquisition ("SCADA") systems used to remotely operate production facilities, and to communicate with onshore operations. API's members increasingly are moving towards broadband and IP-enabled applications.

## II. DISCUSSION

Regarding the upper 700 MHz band C block license at issue in the Applications, the Commission's construction requirements require the licensee holding the authorization to provide signal coverage and offer service over at least 40 percent of the population in each Economic Area ("EA") comprising the authorized Regional Economic Area Grouping ("REAG") license by June 13, 2013, and to provide such service over at least 75 percent of the population of each of these EAs by the end of the license term. Population is to be determined based on the most recently available U.S. Census Data. However, as the Applicants correctly point out, the 2010 U.S. Census does not define a population for the Gulf of Mexico because there are no permanent residents in the Gulf.

In order to demonstrate construction, the Applicants request a waiver to use oil and gas "drilling platforms" as a proxy for population to determine build-out compliance in the portion of the license referred to in the Applications as the "Shoreside Partition." In other words, the Applicants seek to meet the Commission's interim and end of term build-out requirements, respectively, by providing coverage and offering service to 40 percent of the oil and gas "drilling platforms" in the license area in active service as of June 13, 2013, and 75 percent as of the end of the license term, for both the shore-side and off-shore licenses.

API generally supports Commission efforts to propose unique treatment for spectrum allocations in the Gulf of Mexico that are designed to encourage the deployment of new offshore services. As the Court of Appeals has recognized in the past, the FCC need not regulate communications services in the Gulf in the same manner as it does on land.<sup>3</sup> Because of the harsh offshore environment and lack of "permanent residents," the availability of

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<sup>3</sup> *Petroleum Commc'ns, Inc. v. FCC*, 22 F.3d 1164, 1172 (D.C. Cir. 1994) (remanding FCC Gulf licensing proceedings because the Commission failed to account for "the significant differences between land-based and Gulf-based licensees").

communications services in the Gulf of Mexico differs significantly from that on land. Many services available terrestrially are not offered in the Gulf of Mexico, either because of a lack of facilities or as a result of Commission spectrum allocations that restrict offshore licensing of certain services. For example, the Commission does not currently license the Personal Communications Service, Part 22 Paging and Radio Telephone Service, or Educational Broadband Service in the Gulf of Mexico and only recently allocated the Broadband Radio Service in the Gulf in response to a Petition filed by API.<sup>4</sup> The Commission has noted that the Gulf of Mexico “is a strong example of an underserved area where, for a lack of any significant population center, service has not been built out.”<sup>5</sup>

In this case, the Shoreside Partition constitutes a very small area of the Gulf of Mexico, extending only a few miles into the Gulf beyond the 12 mile coastal boundary. In fact, it appears that the partitioned area likely has been designed to accommodate Verizon’s land-based transmitters, the service contours of which extend slightly into the Gulf of Mexico. Verizon proposes to offer the remaining seaward area beyond the “Shoreside Partition” (the “Offshore Partition”) for lease and states that it will cancel the Offshore Partition if it is unable to secure a lease within 30 days of the date the Commission approves the Applications.

API believes that these conditions on the whole are reasonable to justify grant of the Applicants’ waiver request as long as the Commission more precisely defines the types of offshore structures that Verizon will be able to consider as a proxy for population to meet its

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<sup>4</sup> See Provision of Fixed and Mobile Broadband Access (Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands), *Third Order on Reconsideration and Sixth Memorandum Opinion and Order and Fourth Memorandum Opinion and Order and Second Further Notice of Proposed Rulemaking and Declaratory Ruling*, 23 FCC Rcd 5992 (2008).

<sup>5</sup> See Provision of Fixed and Mobile Broadband Access (Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands), *Report and Order and Notice of Proposed Rulemaking*, 33 CR 147 at note 720 (2004).

build-out obligations. The Applicants propose to use “drilling platforms” as that proxy, however, drilling platforms are a very narrow subset of the total number of offshore platforms that have communications requirements. The term “drilling platform” excludes offshore structures such as production, manifold, compression, pumping and valving platforms. It is not clear that the Applicants intended to limit their construction proxy in such a manner. API notes that the citation provided by the Applicants for support that the locations of “drilling platforms” are maintained by the Department of Commerce, actually contains information regarding all offshore platforms in the Gulf of Mexico that are included in the Bureau of Ocean Energy Management’s Technical Information Management System database. API requests the Commission clarify in any Order granting the Applications that the total number of offshore platforms that are included in the Bureau of Ocean Energy Management’s Technical Information Management System database that also fall within the Shoreside Partition are to be used as the proxy for population for determining build-out coverage, not just “drilling platforms.”

API stresses that its comments above are limited to the specific facts of this case. Because offshore facilities tend to be concentrated in shallow waters close to the shore, a licensee potentially could seek to justify coverage for a large portion of the, if not the entire, Gulf of Mexico based on transmitters located onshore that provide little offshore service. This would result in vast unserved portions of the Gulf, particularly in deepwater areas. API does not believe that such a concern justifies denial of the Applications in this instance, primarily because Verizon has agreed to return the Offshore Partition to the Commission if it is unable to find a lessee on the secondary market.<sup>6</sup>

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<sup>6</sup> While the Commission may wish to consider a more global rule change in a future rulemaking proceeding, API does not believe that should be a factor in connection with the Applicants’ specific request.

### **III. CONCLUSION**

API respectfully requests that the Commission take action on the Applicants' waiver request consistent with the comments herein.

Respectfully submitted,

**THE AMERICAN PETROLEUM  
INSTITUTE**

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